Appl. No.09/846,359
Docket No. CM2381
Amdt. dated April 25, 2008
Reply to Office Action mailed on January 25, 2008
Customer No. 27752

REMARKS

Claim Status

Claims 1 – 11, 13, 15, 16, 19 – 23, 24 and 25 are pending in the present application. No additional claims fee is believed to be due.

Claim 23 has been cancelled without prejudice to Applicants right to file Continuation, Continuation-in Part, and/or Divisional Application from the cancelled matter.

Claims 1, 20 and 24 have been amended to recite that said first composition and said second composition are stored in either separate containers or separate compartments of the same container. Support for the amendment can be found, *inter alia*, at page 8, lines 25 – 35 of the specification.

In addition, new Claim 25 has been added. Support for this claim can be found, *inter alia*, at page 8, lines 25 – 35 of the specification.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Rejection Under 35 U.S.C. § 103(a) Over Shindo

Claims 1 – 5, 8 – 10, 13, 15, 16 and 19 – 23 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. 5,853,430 to Shindo *et al*. Applicants respectfully submit that this rejection is improper in light of the claims as amended. Applicants submit that Shindo neither teaches nor discloses each and every element of the present process as recited in Claim 1. As such, Shindo fails to establish a *prima facie* case of obviousness of the present invention.

Applicants respectfully submit that the Office Action has failed to state a *prima facie* case for the obviousness rejection. It is well settled that the question of obviousness under 35 U.S.C. § 103 is not what the person skilled in the art could have done, but rather what would have been obvious for such a person to have done. *Orthokinetics, Inc. v.*

Safety Travel Chairs, Inc., 806 F.2d 1565 (Fed. Cir. 1986). To establish a *prima facie* obviousness of a claimed invention, all the claim elements must be taught or suggested by the prior art reference. *See, In re Royka*, 490 F.2d 981 (C.C.P.A. 1974); MPEP § 2143.03. Furthermore, references relied upon to support a rejection under 35 U.S.C. § 103 must provide enabling disclosure, i.e., they must place the claimed invention in the possession of the public. *In re Payne*, 606 F.2d 303 (C.C.P.A. 1979).

The Office Action alleges at page 3, paragraph 6 that "[i]t would have been obvious to one of ordinary skill in the art at the time the invention was made to select the instantly claimed components from the teachings of Shindo because Shindo teaches these components as beneficial in providing soiled substrates such as carpets with effective cleaning."

Applicants submit that Shindo, however, fails to teach or disclose providing the specific components as recited in Claim 1, wherein said first composition and said second composition are stored in either separate containers or separate compartments of the same container. Applicants direct attention to Shindo at col. 3, lines 28 – 56 and FIG. 1. Shindo explains that in the first step, a hand-held container is provided. "The predissolving takes place within the container when the detergent composition and the solvent are combined to form a concentrated detergent solution." *See*, Shindo at col. 3, lines 35 – 38.

The present invention, however, recites a process wherein "said first composition and said second composition are stored in either separate containers or separate compartments of the same container, and wherein upon contact of said first and second compositions, heat is generated." *See*, Claim 1.

First, Shindo's hand-held container fails to teach or disclose either of the separate containers or separate compartments of the same container of the present invention. Shindo's hand-held container is shown in FIG. 1 as having a single compartment. One of skill in the art would not consider it obvious to arrive at the present invention, where said first and said second compositions are stored in separate containers or separate

compartments of the same container in light of Shindo because Shindo specifically explains that the Shindo composition should be stored and pre-dissolved within a hand-held container having only one compartment for all components. For this reason, Applicants request the rejection to be withdrawn.

Second, Shindo explains that Shindo's composition is pre-dissolved within the Shindo hand-held container. In comparison, the present invention allows for "applying, in any order, to said fabric a first composition, and a second composition . . . wherein upon contact of said first and second compositions, heat is generated." *See*, Claim 1. Unlike Shindo where the concentrated detergent solution is formed within the hand-held compartment, the contact between the first and second compositions of the present invention occur upon applying the first and second compositions upon said fabric. Shindo neither teaches nor suggests a process where the first and second compositions are contacted upon the fabric, wherein heat is generated upon that contact. As such, Shindo fails to establish a *prima facie* case of obviousness for failing to teach or suggest each and every element of the present invention. Applicants respectfully submit that the rejection in light of Shindo should be withdrawn.

Rejection Under 35 U.S.C. § 103(a) Over Wei in view of Shindo

Claims 1 – 11, 13, 15, 16 and 19 – 23 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. 6,245,729 to Wei *et al* in view of Shindo. Applicants respectfully submit that this rejection is improper in light of the claims as amended. Applicants submit that neither Wei nor Shindo, alone or in combination teaches or suggests each and every element of the present process as recited in Claim 1. As such, Wei in view Shindo fails to establish a *prima facie* case of obviousness of the present invention.

Wei discloses "a system for forming and releasing an aqueous peracid solution . . . The system includes a container and a peracid forming composition provided within the container. The container is permeable to the passage of water and aqueous peracid solution. . . Preferably, the peracid forming composition includes a chemical heater

capable of releasing heat upon hydration." *See*, Wei at Abstract (emphasis added). Wei goes on to explain: "When placed in water, water enters the container and interacts with the peracid forming composition provided within the container . . . to provide an aqueous peracid composition." *See*, id (referring to when the container is placed in water).

Applicants submit that for the same reasons that Shindo fails to teach or suggest each and every element of the present invention, Wei similarly fails to teach or suggest each and every element of the present invention.

Like Shindo's hand-held container, Wei discloses its peracid forming composition provided within the container. One of skill in the art would not consider it obvious to arrive at the present invention, where said first and said second compositions are stored in separate containers or separate compartments of the same container in light of Wei because Wei specifically explains that the Wei composition should be provided within a container which is shown in Wei's FIG. 1 to have only one compartment. Wei also explains that water is then added into the container to form the aqueous peracid composition. Wei fails to teach or suggest the separate containers or separate compartments of the same container as recited in Claim 1. Further, as explained above, Shindo fails to correct the outages of Wei because Shindo also fails to teach or suggest this element. For this reason, Applicants request the rejection to be withdrawn.

Further, like Shindo, Wei teaches that the mixing of its 1) peracid forming composition includes a chemical heater capable of releasing heat upon hydration and 2) water occur within the container when the container is placed in water. In comparison, in the present invention, the contact between the first and second compositions of the present invention occur upon applying the first and second compositions upon said fabric. Shindo neither teaches nor suggests a process where the first and second compositions are contacted upon the fabric, wherein heat is generated upon that contact. Again, as explained above, Shindo fails to correct the outages of Wei because Shindo also fails to teach or suggest this element.

As such, Wei in light of Shindo fails to establish a *prima facie* case of obviousness for failing to teach or suggest each and every element of the present invention. Applicants respectfully submit that the rejection in light of Shindo should be withdrawn.

Rejection Under 35 U.S.C. § 103(a) Over Wei in view of Shindo and Scialla

Claim 24 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Wei in view of Shindo and further in view of U.S. 5,905,065 to Scialla *et al.* Applicants respectfully submit that this rejection is improper in light of the claims as amended. Applicants submit that the cited references, alone or in combination, fail to teach or suggest each and every element of the present process as recited in Claim 1. As such, Wei in view Shindo and further in view of Scialla fails to establish a *prima facie* case of obviousness of the present invention.

Scialla discloses its composition can be contained, when in a liquid form, within a spraying device and or a aerosol can. *See,* Scialla at col. 12, line 65 – col. 13, line 11. At best, Scialla discloses that where the Scialla composition is in a granular or powder form, the user could be turned into a liquid form by the user diluting the granular or powder form with water to form an aqueous composition. *See,* id. at col. 13, line 1 – 9.

The cited references fail to establish a *prima facie* case of obviousness because the addition of Scialla still fail to teach or suggest each either of the outages of Wei and Shindo explained above. As such, Applicants request that this rejection of Claim 23 be withdrawn.

With regard to all claims not specifically mentioned, these are believed to be allowable not only in view of their dependency on their respective base claims and any intervening claims, but also for the totality of features recited therein.

All claims are believed to be in condition for allowance. Should the Examiner disagree, Applicants respectfully invite the Examiner to contact the undersigned agent for Applicants to arrange for a telephonic interview in an effort to expedite the prosecution of this matter.

CONCLUSION

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the above mentioned rejections. Early and favorable action in the case is respectfully requested. Should any additional fees be required, please charge such fee to Procter & Gamble Deposit Account No. 16-2480.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

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